

Comparative Analysis of Criminal Sanctions for Violations of Privacy in Iran and Iraq

1. Mohammad Ali Abdulhasan Yassin^{ID}: PhD student in public law, Isfahan (Khorasgan) Branch, Islamic Azad University, Isfahan, Iran

2. Zainab Pourkhaqan Shahrezaee^{ID*}: Assistant Professor, Department of Law, Isfahan (Khorasgan) Branch, Islamic Azad University, Isfahan, Iran

3. Ayad Abdul Hamzah Baawi^{ID}: Assistant Professor of Law Department, Baghdad Police College, Baghdad, Iraq

4. Mohammad Sharif Shahi^{ID}: Assistant Professor, Department of Law, Isfahan (Khorasgan) Branch, Islamic Azad University, Isfahan, Iran

*Correspondence: e-mail: Poorkhaghan@gmail.com

Abstract

In today's world, privacy has gained unparalleled significance as one of the most fundamental human rights. Accordingly, this study aims to conduct a comparative analysis of the criminal sanctions for privacy violations in Iran and Iraq by examining the foundations, instances, and challenges associated with this fundamental right in both legal systems. Using an analytical-comparative method, the study reviews legal, statutory, and jurisprudential sources in both Iran and Iraq to identify similarities and differences in laws, the severity of penalties, and judicial procedures concerning crimes involving privacy violations. The findings indicate that both legal systems recognize privacy as a fundamental right and have made efforts to criminalize its violation. However, serious challenges and limitations persist in the enforcement of these laws. In Iran, there is a greater emphasis on criminalizing privacy violations in cyberspace and protecting workplace privacy, whereas Iraqi law has yet to make sufficient progress in this regard. In both countries, existing laws are sometimes ambiguous and incomplete, and the prescribed criminal sanctions lack the necessary deterrent effect. Additionally, shared challenges such as resource shortages, lack of public awareness, and administrative corruption exist in both legal systems. Based on the findings of this study, it is recommended that comprehensive laws be enacted in line with international human rights standards to enhance criminal protection of privacy, independent and efficient oversight institutions be strengthened, necessary training be provided to judges and law enforcement officials, and public awareness regarding privacy rights be increased. Ultimately, this research underscores that privacy is a fundamental right requiring serious attention and comprehensive efforts for its preservation and protection.

Keywords: Privacy, Criminal Sanction, Iranian Law, Iraqi Law.

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1. Introduction

Given the remarkable advancements in technology and the widespread expansion of communication networks, individuals' personal information has become accessible on an unprecedented scale, increasing the risk of its misuse. Privacy, a fundamental right that allows individuals to control their personal information and remain protected from unwanted intrusions into their lives, has now emerged as a critical global concern. Violations of privacy are no longer considered merely an ethical transgression but are classified as criminal offenses. The misuse of personal data, unauthorized access to information, and breaches of personal solitude result in severe consequences for victims, including psychological, social, and economic harm. Thus, addressing this detrimental phenomenon requires serious attention and decisive legal measures.

Legal systems in Iran and Iraq, despite their shared cultural and religious foundations, have adopted distinct approaches to the issue of privacy. The Iranian legal framework, including the Constitution, the Islamic Penal Code, and the Computer Crimes Law, has addressed privacy protection and prescribed specific criminal sanctions for its violation. Similarly, Iraq has incorporated privacy protections into its legal framework through constitutional provisions, civil laws, and criminal laws. A comparative analysis of these two legal systems, despite the existing challenges and limitations, can provide a deeper understanding of privacy-related issues and strategies for strengthening legal protections.

Given the increasing significance of privacy and the challenges it faces, a study that examines and comparatively analyzes the criminal sanctions for privacy violations in Iran and Iraq is essential. This research aims to identify the strengths and weaknesses of the legal frameworks of both countries, propose legislative reforms, and contribute to the enhancement of criminal protection for privacy. The ultimate objective of this study is to establish a robust legal foundation for safeguarding individuals' rights against privacy breaches, thereby fostering a safer and more just society.

2. Fundamental Concepts

2.1. *Definition of Privacy and Its Instances*

In today's world, privacy has attained unparalleled significance as one of the most fundamental human rights. With the rapid advancement of technology and the expansion of communication networks, individuals' personal information is more exposed to access and misuse than ever before (Stuntz, 2023). Privacy, defined as the right of individuals to control their personal information and limit external interference in their private lives, has become a serious global concern (Jacobi & Kind, 2023).

Violations of privacy are not merely regarded as ethical breaches but are also recognized as criminal offenses. The misuse of personal data, unauthorized access to information, and infringements on individual solitude carry serious consequences for victims. Such breaches may result in psychological, social, and economic harm, necessitating legal intervention and preventive measures (Mohseni, 2011).

Iranian and Iraqi legal systems, despite their cultural and religious commonalities, have distinct approaches to privacy protection. In Iran, the Constitution, the Islamic Penal Code, and the Computer Crimes Law include provisions aimed at safeguarding privacy and prescribing criminal sanctions for its violation (Ghasemzadeh & Mohseni, 2013). In Iraq, the Constitution, along with civil and criminal laws, has also attempted to protect individuals' privacy (Shahbazi, 2024).

Although both legal systems face challenges and limitations, a comparative analysis of their approaches can lead to a better understanding of privacy-related issues and methods for reinforcing legal protections. Given the increasing importance of privacy and the challenges it encounters, conducting a study that comparatively examines the criminal sanctions for privacy violations in Iran and Iraq is necessary. This research aims to identify the strengths and weaknesses of the legal frameworks of both countries, offer reform proposals, and contribute to the enhancement of criminal protection for privacy.

The primary objective of this research is to help establish a suitable legal foundation for protecting individuals' rights against privacy violations, thereby promoting a safer and more just society. This chapter will examine fundamental concepts essential for understanding the topic of "Comparative Analysis of Criminal Sanctions for Privacy Violations in Iran and Iraq." These concepts include the definition of privacy, its various dimensions (informational, physical, spatial, and communicational), as well as the concept of criminal sanctions and their objectives.

Privacy is a multifaceted concept that has been defined differently throughout history and across cultures. However, in a general sense, privacy refers to the right of individuals to control their personal information and private lives while restricting others' access to these domains. This right allows individuals to make independent decisions regarding their thoughts, emotions, and relationships without unauthorized interference or surveillance.

From a legal perspective, privacy is recognized as the right to be free from unlawful intrusions into personal life, personal data, and communications. This right encompasses protection against surveillance, data misuse, disclosure of secrets, and unauthorized access to private spaces. Essentially, privacy enables individuals to establish clear boundaries between their personal lives and the external world, preventing unauthorized intrusions into these domains.

Privacy consists of multiple dimensions, each covering a specific aspect of an individual's life. These dimensions include:

- **Informational Privacy**, which entails individuals' right to control their personal information, including biographical data, contact details, medical records, financial records, and other sensitive data. This right enables individuals to determine how their personal information is collected, stored, used, and disclosed, thereby preventing data misuse by others. With the expansion of new technologies and massive data collection, this aspect of privacy has gained increased importance (Mohseni, 2011).
- **Physical Privacy**, which pertains to individuals' right to bodily integrity and protection from unauthorized physical contact, unwarranted medical examinations, intrusive body searches, and sexual exploitation. This dimension emphasizes that each person has the right to make decisions about their body and to be free from physical violations.
- **Spatial Privacy**, which encompasses individuals' right to the sanctity of their private spaces, including homes, workplaces, and other privately used locations. This right allows individuals to feel secure in these spaces and prevent unauthorized access by others. Unlawful entry into an individual's home or workplace constitutes a violation of spatial privacy.
- **Communicational Privacy**, which refers to individuals' right to confidentiality in their communications, including telephone conversations, electronic messages, letters, and other forms of communication. This right ensures that individuals can communicate freely with others without being subjected to unauthorized surveillance or eavesdropping. Communicational privacy is crucial for safeguarding freedom of expression and fostering healthy social relationships.

2.2. *The Concept of Criminal Sanctions and Their Objectives*

Criminal sanctions refer to the penalties imposed by the state to prevent crime and respond to legal violations committed by offenders. These penalties typically include imprisonment, fines, corporal punishment, and other punitive measures. The objectives of criminal sanctions include:

- **General Deterrence**, which aims to create fear and discourage crime in society by imposing punishments on offenders (Nobahar, 2018). In other words, witnessing the punishment of criminals discourages others from committing similar offenses and promotes adherence to the law.
- **Specific Deterrence**, which seeks to prevent recidivism by the convicted offender (Nekouei Mehr et al., 2019). The punishment must be structured in a manner that dissuades the offender from committing further crimes and encourages behavioral reform.
- **Community Protection**, which involves shielding society from dangerous individuals by incarcerating them (Sarami et al., 2020).
- **Restoration of Justice**, which entails compensating victims for harm suffered due to criminal acts and ensuring fairness in the legal system (Mohseni, 2011).
- **Maintaining Social Order**, which seeks to suppress criminal behavior and uphold public order, preventing chaos and lawlessness (Mortazavi, 2013).

In the realm of privacy, criminal sanctions serve as a legal tool to penalize individuals who unlawfully access others' personal data, disclose private information, or commit other forms of privacy violations. These sanctions not only punish offenders but also foster a culture of respect for privacy rights by creating a deterrent effect.

Ultimately, criminal sanctions are an essential mechanism for ensuring security, justice, and social order. Addressing these objectives effectively can contribute to the improvement of the judicial system and a reduction in crime rates within society. This is particularly crucial in cases involving violent crimes and offenses that threaten public security.

2.3. *Examination of Legal Sources*

Privacy, as one of the fundamental human rights, has consistently been a focal point in various legal systems. This right, which entails an individual's freedom from unauthorized interference in their personal life, information, and communications, has been emphasized in numerous legal sources (Bengart, 2024). In reviewing these sources, the most significant legal references include the Quran and Sunnah, the Constitution, and statutory laws.

The Quran, as the holy book of Muslims, does not explicitly address the concept of privacy; however, several verses indirectly relate to this right. Surah An-Nur, verse 27, highlights the necessity of seeking permission before entering homes, while Surah Al-Hujurat, verse 12, prohibits believers from engaging in espionage and speculation about others. These verses underscore the significance of maintaining personal privacy and the sanctity of solitude in Islamic teachings (Damoush Al-Ameli, 2018).

The Sunnah of the Prophet of Islam (PBUH) and the Imams (AS) is also replete with hadiths emphasizing the importance of privacy. For instance, the Prophet (PBUH) forbade the disclosure of others' secrets, and numerous narrations prohibit eavesdropping on personal conversations and prying into people's affairs (Doosti Zadeh et al., 2024). These hadiths not only highlight the importance of privacy but also indicate that its violation contradicts ethical and religious principles.

In the Iranian legal system, the Constitution serves as the national charter, defining the fundamental rights and freedoms of citizens. Although the term "privacy" is not explicitly mentioned in the Iranian Constitution, several articles implicitly address its manifestations. Article 22 guarantees the inviolability of individuals' life, property, residence, and occupation. Article 23 prohibits the interrogation of beliefs, and Article 25 explicitly forbids the inspection of correspondence and telephone conversations. These articles collectively indicate the significance of privacy within Iran's legal framework (Hashemi, 2020).

Beyond the Constitution, statutory laws also address privacy. The Islamic Penal Code criminalizes privacy violations through multiple provisions. For example, Article 582 criminalizes the unauthorized interception of telephone conversations, while Article 694 classifies unlawful entry into a person's residence as a crime (Mousavi Khomeini, 2012). Additionally, the 2009 Computer Crimes Law was enacted to combat cybercrimes and safeguard privacy in virtual spaces (Rezaeepour, 2020, p. 34). These laws, alongside other relevant statutes, aim to protect individuals' privacy within society.

The Iraqi legal system also acknowledges privacy protection in both its Constitution and statutory laws. Article 17 of the Iraqi Constitution explicitly states that "the privacy of every individual shall be protected, provided it does not contradict the rights of others and public morality." This provision stands as the principal legal foundation for privacy rights in Iraq, emphasizing the necessity of respecting individuals' solitude and personal life.

Furthermore, Iraqi statutory laws contain multiple provisions safeguarding privacy. The Iraqi Penal Code criminalizes unlawful entry into residences, eavesdropping, and the unauthorized disclosure of secrets. Efforts have also been made to draft laws on the protection of personal data in cyberspace, although comprehensive and cohesive legislation in this area has yet to be enacted (Khodaei Kahriz, 2024).

A review of these legal sources demonstrates that both Iran and Iraq recognize privacy as a fundamental right. However, existing laws and regulations in this domain require further refinement and reinforcement to effectively protect privacy in the face of modern challenges. This review sets the stage for a more detailed comparative analysis of the criminal sanctions for privacy violations in Iran and Iraq.

3. **Foundations and Instances of Privacy in Iranian Law**

3.1. *Legal Foundations of Privacy in the Iranian Constitution*

The Constitution of the Islamic Republic of Iran, as the national charter, establishes the general framework for citizens' rights and freedoms. Although the term "privacy" is not explicitly mentioned in this document, an examination of various articles reveals foundational support for this right:

- **Article 22:** This article states: "The dignity, life, property, rights, residence, and occupation of individuals shall be inviolable, except in cases prescribed by law." This provision ensures the protection of crucial aspects of personal life and implicitly supports privacy rights in these areas (Hashemi, 2020).
- **Article 23:** This article prohibits the interrogation of beliefs, stating: "Interrogation of beliefs is forbidden, and no one shall be persecuted or reprimanded solely for holding a belief." This provision protects individuals' intellectual and ideological privacy.
- **Article 24:** This article affirms freedom of expression, provided it does not contravene Islamic principles or public rights. Indirectly, this article supports communicational privacy by ensuring individuals' freedom to express themselves privately.
- **Article 25:** This provision explicitly prohibits violations of communicational privacy: "Inspection and non-delivery of letters, recording and disclosure of telephone conversations, publication of telegraph and telex communications, censorship, non-transmission, and non-delivery of messages, eavesdropping, and all forms of espionage are prohibited, except as prescribed by law." This article represents one of the most significant constitutional protections of privacy in Iran.
- **Article 39:** This article prohibits any form of defamation or humiliation of individuals who have been lawfully arrested, detained, imprisoned, or exiled, thereby extending protection to aspects of individuals' moral privacy.

These constitutional articles demonstrate that Iran's legal framework, albeit implicitly, upholds privacy rights through various protective provisions.

3.2. *Legal Provisions Related to Privacy in the Islamic Penal Code*

The Islamic Penal Code, as one of Iran's most significant sources of criminal law, criminalizes privacy violations through multiple provisions. Some of these include:

- **Article 582:** This article classifies unauthorized eavesdropping and recording of telephone and telecommunication conversations without legal authorization as a crime and prescribes penalties accordingly. This provision safeguards individuals' communicational privacy.
- **Article 648:** This article criminalizes the disclosure of professional secrets by doctors, surgeons, midwives, pharmacists, and others who, by virtue of their profession, become privy to confidential information. This provision protects informational and professional privacy.
- **Article 694:** This article criminalizes forced or unauthorized entry into another person's home, prescribing imprisonment for offenders. This provision safeguards spatial privacy.
- **Article 700:** This article criminalizes forcible or threatening entry into property occupied by another individual, prescribing imprisonment as punishment. This provision indirectly supports spatial privacy.

3.3. *Examination of Special Laws (Computer Crimes Law, E-Commerce Law, etc.)*

In addition to the Constitution and the Islamic Penal Code, several specific laws have been enacted to enhance privacy protection in Iran:

- **2009 Computer Crimes Law:** This law was introduced to combat cybercrimes and criminalizes unauthorized access to data, disclosure of personal information, and other behaviors violating privacy in virtual spaces.
- **2003 E-Commerce Law:** This law includes provisions on the protection of personal data in electronic commerce, aiming to safeguard privacy in this domain.
- **2008 Law on Publication and Free Access to Information:** While emphasizing the principle of free access to information, this law recognizes certain exceptions, including the protection of personal privacy.

- **2015 Law on the Protection of Promoters of Virtue and Preventers of Vice:** Despite its objectives, Article 5 of this law disregards certain aspects of privacy, particularly in vehicles, potentially violating privacy rights.

These legal provisions collectively aim to reinforce privacy protection, particularly in the digital realm, yet require further refinement to ensure comprehensive safeguards against contemporary threats.

3.4. *Examination of Instances of Privacy Violations in Iranian Law*

Under the existing laws and regulations in Iranian law, the following acts are recognized as violations of privacy:

- **Surveillance and Espionage:** Surveillance refers to the act of attempting to obtain confidential information about an individual's private life without their consent. This practice is prohibited under Iranian law and can be prosecuted as a criminal offense.
- **Disclosure of Secrets:** The disclosure of individuals' personal secrets, particularly professional and family-related secrets, constitutes a violation of privacy. The Islamic Penal Code has prescribed penalties for such offenses.
- **Unlawful Entry into Homes and Private Premises:** Entering a person's home or private premises without their consent or without legal authorization is considered a violation of spatial privacy and is classified as a criminal offense.
- **Eavesdropping and Interception of Communications:** Recording telephone conversations, eavesdropping on private communications, and inspecting individuals' correspondence without legal authorization constitute violations of communicational privacy and are criminal offenses.
- **Tampering with Data and Information:** Unauthorized access to individuals' data and personal information in cyberspace, identity theft, and misuse of personal information are considered violations of informational privacy.

4. **Foundations and Instances of Privacy in Iraqi Law**

4.1. *Legal Foundations of Privacy in the Iraqi Constitution*

The Iraqi Constitution, adopted in 2005 as the supreme legal document of the country, establishes the foundations of fundamental rights and freedoms of citizens. Although the term "privacy" is not explicitly mentioned, several provisions implicitly and indirectly support this right.

- **Article 17:** This provision states: "The privacy of every individual shall be protected, provided that it does not conflict with the rights of others and public morality." This article represents one of the most fundamental legal bases for privacy protection in Iraq. It explicitly acknowledges the sanctity of privacy and prohibits any form of infringement unless permitted by law. Furthermore, the clause "provided that it does not conflict with the rights of others and public morality" suggests that privacy is not an absolute right and may be subject to limitations in cases where public order or the rights of others are at stake.
- **Article 18:** This provision states: "Every citizen has the right to protect their private life and communications." It underscores the importance of communication freedom and the protection of personal information. Complementing Article 17, this provision specifically emphasizes privacy in the realm of communications and personal data. Given technological advancements and the increasing threats to privacy in cyberspace, this article serves as a foundation for enacting more detailed and comprehensive legislation in the future.
- **Article 38:** This provision states: "The state shall guarantee freedom of communication, the press, printing, advertising, and information dissemination." While this article safeguards freedom of expression and the press, it is also indirectly related to privacy protection. On one hand, press and communication freedom ensures transparency and proper dissemination of information in society; on the other hand, if left unchecked, it may lead to privacy violations. Thus, this provision requires precise interpretation and supplementary regulations to balance freedom of expression with privacy rights.
- **Article 39:** This article guarantees the freedom of assembly and demonstrations in accordance with the law, ensuring that individuals are not subjected to harassment due to their religious or political beliefs. By recognizing the right to peaceful assembly, this provision indirectly affirms the right to privacy by ensuring that individuals can participate in

civil activities without fear of surveillance, unauthorized monitoring, or disclosure of personal information. This article reflects the legislature's effort to strike a balance between public security and privacy rights.

- **Article 40:** This provision explicitly guarantees the confidentiality of communications and correspondence, prohibiting unauthorized access or illegal surveillance. This article provides a crucial legal basis for combating cybercrimes and privacy violations in the digital realm. With the increasing reliance on modern communication technologies, the emphasis on this provision highlights the Iraqi Constitution's recognition of the growing importance of privacy protection in cyberspace.

Articles 17 through 40 of the Iraqi Constitution establish a strong legal foundation for the protection of citizens' privacy. Although these provisions do not explicitly mention the term "privacy," their substance clearly underscores the necessity of safeguarding this right. However, effective enforcement of these provisions requires the enactment of more specific legislation addressing cybercrimes, digital privacy, and independent regulatory bodies. Without such measures, existing constitutional protections remain broad principles that may not effectively prevent privacy violations.

4.2. *Legal Provisions Related to Privacy in the Iraqi Penal Code*

The Iraqi Penal Code, as one of the most significant sources of criminal law, criminalizes privacy violations through various provisions. These provisions generally cover three main aspects of privacy: spatial, communicational, and informational privacy, prescribing specific penalties for each.

- **Article 438:** This article criminalizes unlawful entry into another person's home or residence without consent and legal authorization, prescribing imprisonment as a penalty. This provision explicitly protects individuals' spatial privacy, aiming to prevent any form of unauthorized intrusion into citizens' private spaces. The criminalization of such acts reflects the Iraqi legislature's recognition of the significance of security and tranquility in personal environments. Additionally, this article aligns with Articles 17 and 18 of the Iraqi Constitution, which emphasize the inviolability of residences and the protection of private life.
- **Article 439:** This provision criminalizes unauthorized interference with individuals' correspondence and private communications, prescribing legal penalties. It protects communicational privacy and covers all forms of communication, including written, electronic, and telephonic exchanges. The criminalization of communication breaches demonstrates the Iraqi legislature's commitment to safeguarding individuals' rights against eavesdropping, unauthorized disclosure, and other forms of privacy violations. The importance of this article lies in the recognition that confidentiality in communications is a fundamental human right, and its violation can severely undermine public trust and communication security. This provision aligns with Article 40 of the Iraqi Constitution, which guarantees the freedom of communication and correspondence.
- **Article 440:** This provision classifies threats and intimidation aimed at disclosing an individual's private secrets as a criminal offense, prescribing penalties accordingly. It specifically addresses cases in which individuals are coerced or blackmailed with the threat of disclosing confidential information. The criminalization of such conduct highlights the Iraqi legislature's awareness of the psychological and social harm associated with threats to disclose private information. By imposing penalties such as imprisonment or fines, this provision seeks to deter such offenses. Furthermore, it illustrates that privacy protection in Iraq is not limited to spatial and communicational aspects but extends to personal information and human dignity.
- **Article 434:** This provision criminalizes unlawful eavesdropping, explicitly protecting individuals' communicational privacy. It particularly addresses the unauthorized interception and recording of conversations without the consent of the parties involved. The criminalization of eavesdropping signifies the Iraqi legislature's acknowledgment of the importance of communication confidentiality in maintaining public trust and social security. This provision is consistent with Article 40 of the Iraqi Constitution, which emphasizes the freedom and confidentiality of communications. To enhance deterrence, the legislature has imposed imprisonment and financial penalties for violators.

Articles 438, 439, 440, and 434 of the Iraqi Penal Code provide a clear legal framework for the protection of privacy in spatial, communicational, and informational domains. These provisions indicate that the Iraqi legislature, despite some legal

gaps, has made significant efforts to explicitly criminalize privacy violations and prescribe specific penalties to prevent such offenses. However, with rapid advancements in information technology and the increasing prevalence of cybercrimes, there is a pressing need to revise and update some of these provisions. Aligning these laws with international human rights standards and strengthening regulatory bodies could significantly improve privacy protection in Iraq.

4.3. *Examination of Special Laws Related to Privacy*

In Iraqi law, several special laws have addressed privacy protection:

- **Law on Combating Privacy Violations:** Enacted in 2005, this law was designed to address violations of individuals' privacy in various forms. It explicitly criminalizes offenses such as surveillance, eavesdropping, disclosure of personal secrets, and unauthorized entry into private premises, prescribing penalties for each offense (Law on Combating Privacy Violations, 2005).
- **Personal Data Protection Law (Draft):** The draft of Iraq's Personal Data Protection Law was introduced by the government in 2019. If passed, this law would mark a significant step toward protecting citizens' privacy against threats arising from modern and digital technologies.

4.4. *Examination of Instances of Privacy Violations in Iraqi Law*

Under the existing laws and regulations in Iraqi law, the following acts are recognized as violations of privacy:

- **Surveillance:** Unauthorized investigation or examination of an individual's personal and private affairs without their consent or legal authorization.
- **Disclosure of Secrets:** The publication or disclosure of individuals' personal, family, or professional information without their consent.
- **Unlawful Entry into Homes:** Entering another person's home or place of residence without permission or legal authorization constitutes a clear violation of spatial privacy.
- **Eavesdropping:** The illegal interception of telephone, radio, and personal communications is considered a violation of communicational privacy.
- **Privacy Violations in Cyberspace:** Unauthorized access to individuals' personal data in cyberspace, misuse of personal data, and the dissemination of information without consent.

These instances demonstrate that Iraqi law has attempted to protect individuals' privacy from various potential violations. However, numerous challenges and limitations in enforcing these laws require further attention and action.

5. **Comparative Analysis of Criminal Sanctions for Privacy Violations**

5.1. *Comparison of Criminal Sanctions in Iran and Iraq*

This section provides a comparative analysis of the criminal sanctions for privacy violations in Iran and Iraq. This comparison examines the types of penalties, their severity for different offenses, and the specific criminalized acts in both countries.

In Iranian law, criminal sanctions for privacy violations are outlined in the Islamic Penal Code and other special laws. The types of penalties include imprisonment, fines, and discretionary punishments. The severity of these penalties varies depending on the nature of the offense and the circumstances of its commission. For example, unlawful entry into another person's home with force or threats is punishable by imprisonment ranging from six months to three years (Article 694 of the Islamic Penal Code). Meanwhile, unauthorized eavesdropping is punishable by imprisonment ranging from one to three years or a fine between six to eighteen million rials (Article 582 of the Islamic Penal Code). Additionally, for cybercrimes and privacy violations in virtual spaces, penalties include imprisonment and fines proportional to the offense.

In Iraqi law, the Penal Code criminalizes privacy violations and establishes corresponding criminal sanctions. The types of penalties include imprisonment, fines, and discretionary punishments. As in Iran, the severity of these penalties varies depending on the type of offense. For instance, unlawful entry into another person's home is punishable by imprisonment, and

unauthorized interference with private correspondence is also a criminal offense with specific penalties (Articles 438 and 439 of the Iraqi Penal Code).

When comparing the criminalized acts in Iran and Iraq, both legal systems classify unlawful entry into private spaces, eavesdropping, and disclosure of secrets as criminal offenses. However, differences exist in how these offenses are defined and penalized. In Iranian law, greater emphasis has been placed on protecting privacy in cyberspace, with specific laws enacted to combat cybercrimes. In contrast, Iraq is still in the process of drafting legislation to address such issues comprehensively.

Regarding criminal procedure in privacy-related offenses, differences exist between Iran and Iraq in judicial processes, evidence collection, and defendants' rights. In Iran, judicial authorization is required for any action that intrudes upon privacy, and strict legal procedures must be followed during prosecution. In Iraq, while fundamental rights of the accused are acknowledged, judicial practices in this field remain less developed compared to Iran.

Overall, in comparing criminal sanctions, both Iran and Iraq have made efforts to criminalize privacy violations and prescribe appropriate penalties. However, the relevant laws and regulations still require reform and enhancement to effectively safeguard individuals' privacy from various threats. In Iran, privacy laws related to cyberspace and modern technologies are more advanced compared to Iraq, but both countries share deficiencies in criminal sanctions, which necessitate legal revisions. Additionally, greater alignment with international human rights standards, particularly in privacy protection, is needed.

5.2. *Types of Penalties (Imprisonment, Fines, and Discretionary Punishments)*

In both Iran and Iraq, three primary types of penalties exist for various offenses, including privacy violations: imprisonment, fines, and discretionary punishments.

- Imprisonment refers to the deprivation of an individual's liberty and their confinement in prison. It is one of the most common forms of punishment in both Iran and Iraq. This penalty is imposed for serious offenses such as unlawful entry into a residence with force and threats, unauthorized eavesdropping, and disclosure of professional secrets that result in severe harm to individuals' privacy (Nobahar, 2018). In Iranian law, the duration of imprisonment varies depending on the offense and circumstances of commission, ranging from several months to several years or even life imprisonment. Similarly, in Iraq, imprisonment serves as a principal penalty, with sentencing durations varying based on the severity of the crime.
- Fines constitute another form of punishment in both Iran and Iraq and are used as a deterrent and compensation mechanism. Fines are typically imposed for less severe offenses compared to those warranting imprisonment. These include the unauthorized disclosure of personal information or illegal access to private data. In Iranian law, the amount of the fine is determined based on the type of offense and the extent of damage to the victim, ranging from hundreds of thousands to millions of rials. In Iraq, fines are applied either as a standalone penalty or in conjunction with imprisonment, with the amount determined based on the nature of the offense, its severity, and the economic conditions of the country.
- Discretionary Punishments (Ta'zir) represent the third type of penalty, particularly in Iranian criminal law. These punishments apply to offenses not explicitly defined by Islamic law (Hudud or Qisas) and are determined at the discretion of the judge, considering the nature of the offense and its circumstances (Mousavi, 2010). Discretionary punishments in Iran can include imprisonment, fines, flogging, dismissal from public service, and other penalties. In Iraq, discretionary punishments also exist as complementary and deterrent measures, though they may differ in form and severity from those in Iran.

In the context of privacy violations, discretionary punishments are often imposed for offenses not covered by fixed penalties, such as certain violations in cyberspace or professional misconduct resulting in privacy breaches.

A crucial consideration is that criminal sanctions should be proportionate to the committed offense and should not themselves violate fundamental rights. Criminal penalties should serve as effective deterrents, ensuring justice and social order, rather than being excessive measures that encroach upon individual freedoms.

Both Iran and Iraq face challenges in effectively enforcing these penalties and ensuring their proportionality to privacy violations. As a result, reforms in legislation, strengthening of oversight institutions, and raising public awareness are necessary steps to improve criminal sanctions for privacy violations in both countries. Furthermore, privacy laws should be formulated

and enforced in a manner that both protects individuals' rights and aligns with international human rights standards (Tabatabaei Motameni, 2019).

5.3. *Severity of Punishments for Various Offenses*

In analyzing the severity of punishments for different types of privacy violations in Iran and Iraq, it becomes evident that both legal systems prescribe varying penalties based on the nature and gravity of the offense. In Iranian law, penalties for privacy violations are determined under the Islamic Penal Code and other special laws. These penalties generally include imprisonment, fines, and discretionary punishments. For example, unlawful entry into a home or private premises, depending on the circumstances of the offense, may result in imprisonment ranging from one month to one year (Article 580 of the Islamic Penal Code) (Jafari Langroudi, 2011). If the entry involves force or threats, the penalty increases to imprisonment from six months to three years (Article 694 of the Islamic Penal Code) (Nobahar, 2018).

Similarly, eavesdropping and the disclosure of private communications are criminalized, with penalties of imprisonment ranging from one to three years or fines between six to eighteen million rials (Article 582 of the Islamic Penal Code) (Haeri et al., 2012). Additionally, the disclosure of professional secrets by specific individuals, such as doctors and lawyers, is also classified as a crime, carrying penalties of imprisonment from three months and one day to one year or a fine (Article 648 of the Islamic Penal Code) (Soroush, 2015).

For cybercrimes and privacy violations in virtual spaces, various penalties have been introduced. Unauthorized access to personal data can result in imprisonment and fines, depending on the type of data accessed and the harm caused to the victim (Cyber Crimes Law) (Nekounam, 2024). The severity of these punishments varies based on the extent of the damage inflicted on the affected individual (Fatemi, 2024).

In Iraqi law, penalties for privacy violations include imprisonment, fines, and discretionary punishments. Unlawful entry into another person's home or place of residence is punishable by imprisonment, though the duration varies based on the circumstances of the offense (Article 438 of the Iraqi Penal Code) (Damoush Al-Ameli, 2018). Interference with private correspondence and communications is also a criminal offense, carrying penalties of imprisonment or fines (Article 439 of the Iraqi Penal Code) (Mortazavi, 2013). Additionally, threatening individuals with the disclosure of their personal secrets is considered a criminal act and is subject to punishment (Article 440 of the Iraqi Penal Code). Furthermore, unauthorized eavesdropping is explicitly criminalized under the Iraqi Penal Code (Article 434 of the Iraqi Penal Code) (Shariati, 2017).

When comparing the severity of punishments in Iran and Iraq, it is evident that both legal systems rely on imprisonment and fines as primary tools for addressing privacy violations. However, there are differences in the extent and severity of these penalties. In Iranian law, greater specificity exists in defining offenses and determining penalties. For example, under the Cyber Crimes Law, punishments vary depending on the nature and impact of the offense (Doosti Zadeh et al., 2024). In contrast, in Iraqi law, some penalties are defined more broadly, without clearly specifying the exact duration of imprisonment or amount of fines, which can lead to interpretative discrepancies (Vara, 2024).

It is also important to note that the severity of punishments alone is not sufficient to ensure privacy protection. Other factors, such as effective law enforcement, public education, and fostering a culture of respect for privacy rights, play a crucial role in this regard (Mohseni, 2011). Furthermore, the absence of independent and effective regulatory bodies in both Iran and Iraq, particularly in the digital space, has posed challenges in the proper implementation of these penalties (Golmakani, 2024).

As a result, governments must not only establish appropriate punishments but also improve other legal and cultural aspects related to privacy protection. Strengthening regulatory institutions, training judges and law enforcement officials, and enacting comprehensive and cohesive privacy laws are among the measures that can enhance privacy protection in Iran and Iraq (Vara, 2024).

5.4. *Comparison of Criminalized Acts*

In comparing the criminalized acts related to privacy violations in Iranian and Iraqi law, both legal systems address certain common aspects of privacy protection while also exhibiting notable differences.

In both Iran and Iraq, unlawful entry into homes or private premises is one of the most prominent criminalized acts related to privacy violations. This offense, defined as entering another person's property without their consent or legal authorization, is punishable by imprisonment and fines in both jurisdictions (Jafari Langroudi, 2011). This crime is particularly significant because it constitutes a clear violation of spatial privacy and undermines the security and tranquility of individuals in their personal environments (Ansari, 2014).

Similarly, eavesdropping and the unauthorized interception of private communications are recognized as criminal offenses in both legal systems. This offense includes illegally listening to or recording telephone conversations, electronic communications, and other private correspondences, directly infringing on communicational privacy (Haeri et al., 2012). In both Iran and Iraq, this offense is punishable by imprisonment and fines, aiming to protect individuals' rights to confidential communication (Nobahar, 2018).

Another shared criminalized act in Iran and Iraq is the disclosure of personal secrets. This offense includes the publication of private information, professional secrets, family matters, and other confidential data. The unauthorized disclosure of such information seriously damages informational privacy, and in both Iran and Iraq, this offense is subject to imprisonment and fines (Mohseni, 2011).

In Iranian law, there is a greater focus on privacy violations in cyberspace and cybercrimes. These offenses include unauthorized access to personal data, the publication of private information without consent, and the misuse of personal data in digital environments. The Cyber Crimes Law in Iran specifically addresses these offenses and prescribes penalties for them (Nekouei Mehr et al., 2019). In contrast, Iraq lacks a comprehensive legal framework for cyberspace privacy. Although the draft Personal Data Protection Law has generally addressed cybercrimes, a comprehensive and detailed law is still needed (Doosti Zadeh et al., 2024).

Another distinct offense in Iranian law is the disclosure of professional secrets by specific individuals, such as doctors and lawyers. The Islamic Penal Code mandates these professionals to maintain confidentiality regarding their clients and patients, and violating this duty is criminalized (Article 648 of the Islamic Penal Code) (Soroush, 2015). This professional privacy protection is not explicitly defined in Iraqi law.

Regarding freedom of expression, both Iran and Iraq prohibit eavesdropping and unauthorized recording. However, differences exist in the extent of limitations on freedom of speech in relation to privacy rights. In Iran, greater restrictions are imposed on freedom of expression, particularly when it affects Islamic principles or the political system (Mortazavi, 2013). In contrast, Iraq grants relatively greater freedom of speech and the press, with fewer legal restrictions in this area (Shariati, 2017). Nevertheless, neither Iran nor Iraq fully aligns with international standards on freedom of expression and privacy rights (Hashemi, 2020).

Additionally, Iranian law places greater emphasis on protecting privacy from government surveillance, while Iraqi law focuses more on privacy protection between individuals (Daneshpour, 2016).

Overall, a comparison of criminalized acts related to privacy violations in Iran and Iraq reveals that both countries have taken measures to protect privacy rights, yet differences exist in the scope of offenses and the emphasis placed on various aspects of privacy. Iran places more focus on cyberspace privacy and professional confidentiality, while Iraq prioritizes the protection of home privacy and private correspondence. These differences reflect the varying approaches of both legal systems in addressing emerging challenges in communications and information technology (Fatemi, 2024).

5.5. *Common Criminalized Acts in Iran and Iraq*

A comparative examination of Iranian and Iraqi laws on the criminalization of privacy violations reveals that both legal systems have adopted similar approaches in certain areas, recognizing common offenses. These shared offenses highlight the

importance of privacy rights in both societies and reflect a mutual understanding of what constitutes a violation of privacy (Ansari, 2014).

One of the most significant common criminalized acts in both Iran and Iraq is unlawful entry into homes or private premises. In both legal systems, entering another person's property without their consent or legal authorization is considered a violation of spatial privacy and is classified as a criminal offense (Jafari Langroudi, 2011). This crime, which entails an infringement on individuals' right to security within their private environments, carries penalties such as imprisonment and fines. Both the Islamic Penal Code of Iran and the Iraqi Penal Code address this offense and provide for criminal sanctions (Mohseni, 2011).

Eavesdropping and the unauthorized interception of private communications constitute another shared criminal offense in both Iranian and Iraqi law. This offense includes secretly listening to others' conversations, unauthorized recording of telephone or radio communications, and the interception of electronic communications without permission (Haeri et al., 2012). Both Iran and Iraq recognize the importance of the confidentiality of personal communications and criminalize such acts to prevent misuse of private interactions (Nobahar, 2018). The penalties for these offenses generally include imprisonment and fines, with the goal of protecting communicational privacy (Nekouei Mehr et al., 2019).

The unauthorized disclosure of personal secrets is another offense criminalized in both legal systems. This crime involves the publication or disclosure of confidential and personal information without consent, including family, financial, professional, or other sensitive information (Soroush, 2015). Both Iranian and Iraqi law classify this offense as a violation of informational and moral privacy and prescribe criminal penalties for its commission. Both legal systems recognize the harmful impact of disclosing private secrets on individuals' lives, reputations, and dignity, and therefore, criminalize such actions (Mortazavi, 2013).

Furthermore, both Iran and Iraq are committed to preventing activities that facilitate privacy violations and ensuring adequate deterrence against such offenses (Damoush Al-Ameli, 2018). These shared criminalized acts indicate that both legal systems have a common understanding of fundamental privacy violations and have sought to protect individuals' privacy through criminal sanctions (Fatemi, 2024).

In this context, Iran's Cyber Crimes Law is particularly noteworthy, as it specifically criminalizes privacy violations in cyberspace, imposing defined penalties for unauthorized access to data, the dissemination of personal information without consent, and the misuse of private data (Nekounam, 2024). These laws demonstrate that Iran has adopted a more comprehensive and advanced approach to digital privacy protection than Iraq, where legal gaps in this area still exist (Doosti Zadeh et al., 2024).

5.6. *Differences in Criminalized Acts in Iran and Iraq*

In addition to the shared criminalized acts, a comparative analysis of Iranian and Iraqi privacy laws reveals differences in their legislative approaches and priorities (Ansari, 2014).

One of the most significant differences is Iran's greater emphasis on criminalizing privacy violations in cyberspace and cybercrimes. Iran's Cyber Crimes Law specifically addresses digital privacy violations, criminalizing unauthorized access to data, the publication of personal information without consent, the misuse of personal data, and other online privacy breaches. Iran imposes strict penalties, including imprisonment and fines, for such offenses (Nobahar, 2018). This focus on digital privacy reflects the Iranian legislature's concern over the new threats posed by modern technologies to privacy (Fatemi, 2024).

In contrast, Iraqi law has not advanced as much in this area and lacks comprehensive and independent legislation specifically addressing cybercrimes and digital privacy violations. Although a draft Personal Data Protection Law has been submitted to Iraq's parliament, it has not yet been enacted (Doosti Zadeh et al., 2024). This disparity stems from differences in the pace of technological development and legislative priorities in both Iran and Iraq (Golmakani, 2024).

Another major difference is Iran's criminalization of the disclosure of professional secrets by specific professions, such as doctors, lawyers, and consultants. The Islamic Penal Code of Iran mandates that these professionals maintain confidentiality regarding their clients' and patients' information, and violating this duty is classified as a crime (Article 648 of the Islamic Penal

Code) (Soroush, 2015). This legal protection of professional privacy is not explicitly addressed in Iraqi law. While Iraqi law acknowledges the importance of confidentiality, it does not criminalize the disclosure of professional secrets to the same extent as Iran. This difference highlights Iran's stronger emphasis on protecting privacy in professional relationships and maintaining public trust (Mohseni, 2011).

Another area of divergence is the legal approach to surveillance and investigation. In Iranian law, "surveillance" (*tajassos*) is broadly defined as an offense, encompassing attempts to obtain confidential information about individuals' private lives without their consent. Both the Iranian Constitution and statutory laws explicitly prohibit surveillance and classify it as a violation of privacy rights (Haeri et al., 2012). Iraqi law, however, focuses more on eavesdropping and unauthorized interception of communications, rather than adopting a broad legal definition of surveillance (Damoush Al-Ameli, 2018). This difference reflects varying legal approaches to defining and addressing privacy intrusions (Tabatabaei Motameni, 2019).

Differences also exist in freedom of expression and the press. While both Iran and Iraq recognize freedom of speech, legal restrictions vary between the two countries. In Iran, stricter laws regulate freedom of expression and the press, particularly in cases where statements or publications are perceived as challenging Islamic principles or the political system (Mortazavi, 2013). In contrast, Iraq grants comparatively greater freedom of speech and imposes fewer restrictions in this area (Shariati, 2017). This difference influences how privacy violations related to publishing and expressing opinions are handled (Hashemi, 2020).

Additionally, Iranian law places greater emphasis on protecting privacy from government surveillance and oversight, whereas Iraqi law focuses more on safeguarding privacy from intrusions by private individuals (Daneshpour, 2016).

These differences in criminalized acts indicate that Iran and Iraq have distinct legislative approaches to privacy violations, shaped by cultural, social, and political factors (Nekounam, 2024). These differences reflect the varied legislative priorities and concerns of lawmakers in both countries, necessitating further legal analysis and comparison of their respective legal and social frameworks (Vara, 2024).

5.7. *Comparison of Criminal Procedure in Addressing Privacy Violations*

A comparative analysis of criminal procedure in addressing privacy violations in Iran and Iraq reveals that both legal systems, in accordance with criminal justice principles, have made efforts to uphold the rights of the accused and ensure fair trials (Ansari, 2014). However, differences exist in procedures, regulations, and legal safeguards in both countries, which influence how these crimes are adjudicated.

In Iran, the Criminal Procedure Code of 2014 specifically addresses certain aspects of privacy violation cases. During preliminary investigations, for example, entry into private homes or premises must be authorized by a judicial warrant and carried out in compliance with legal formalities (Article 96 of the Criminal Procedure Code) (Jafari Langroudi, 2011). Similarly, eavesdropping and recording private conversations require judicial authorization and must follow specific legal procedures (Article 104 of the Criminal Procedure Code) (Haeri et al., 2012). These regulations aim to prevent potential abuse by law enforcement officials in violating individuals' privacy (Nobahar, 2018).

Additionally, the rights of the accused are protected at various stages of the criminal process. Defendants have the right to legal representation, the right to remain silent, the right to be informed of the charges against them, and the right to present a defense. These rights are designed to ensure fair trials and prevent wrongful convictions (Hashemi, 2020). However, challenges in judicial practice still exist, and in some cases, the rights of the accused are not adequately upheld (Soroush, 2015).

In Iraq, the Criminal Procedure Code, as a primary legal framework for adjudicating crimes, also contains provisions related to privacy rights. The Iraqi Constitution explicitly emphasizes the sanctity of private homes, correspondence, and personal communications, and these protections are reflected in criminal procedure laws (Damoush Al-Ameli, 2018). For instance, law enforcement officials in Iraq are also required to obtain judicial authorization before entering private residences or

conducting searches. However, Iraqi procedural laws are generally less detailed and comprehensive than those in Iran (Mortazavi, 2013).

In Iraq, the rights of the accused are also recognized within criminal proceedings, yet the practical enforcement of these rights remains challenging. In particular, cases involving national security and organized crime tend to see a higher likelihood of due process violations (Shariati, 2017).

Comparing criminal procedure in Iran and Iraq, it is evident that both legal systems emphasize the necessity of procedural safeguards and the rights of the accused in privacy-related offenses (Mohseni, 2011). However, Iran's Criminal Procedure Code provides a more detailed and structured framework, with greater legal safeguards aimed at protecting privacy rights during trials (Nekounam, 2024). Moreover, Iranian judicial practices in this area are more developed compared to Iraq, where procedural deficiencies persist (Fatemi, 2024).

Both Iran and Iraq face challenges in implementing procedural safeguards, such as insufficient training for law enforcement officers and judges, ambiguities in interpreting legal provisions, and lack of clarity regarding the scope of judicial authority (Golmakani, 2024). Additionally, the rise of cybercrimes and the use of new technologies have introduced complex legal challenges for both Iranian and Iraqi judicial systems. To address these challenges, it is essential to increase public awareness of privacy rights and support civil society organizations working to protect citizens' rights (Vara, 2024).

These findings indicate that while both Iran and Iraq are working to strengthen their criminal procedure frameworks, significant legal reforms and revisions remain necessary.

5.8. *Strengths and Weaknesses of Criminal Sanctions in Iran and Iraq*

An analysis of the strengths and weaknesses of criminal sanctions for privacy violations in Iran and Iraq reveals that both legal systems possess distinct advantages and shortcomings that impact their effectiveness in protecting privacy rights (Ansari, 2014).

In Iran, one of the key strengths of the criminal justice system in privacy protection is the presence of specific and detailed legislation, such as the Cyber Crimes Law and the Electronic Commerce Law. These laws explicitly address cybercrimes, privacy violations in the digital space, and misuse of personal data, prescribing appropriate penalties (Nekounam, 2024). Additionally, Iran's Criminal Procedure Code establishes clear procedural requirements for searches, wiretapping, and surveillance, which are crucial for protecting citizens' privacy during legal proceedings (Jafari Langroudi, 2011). Furthermore, Iran benefits from an independent and relatively active judicial system, which enables prosecution and adjudication of privacy-related offenses (Hashemi, 2020).

Despite these strengths, Iranian law also suffers from significant weaknesses. One of the major shortcomings is the absence of a comprehensive privacy protection law. Instead, existing laws are fragmented and sometimes inconsistent, failing to comprehensively address all dimensions of privacy (Sarami et al., 2020). For instance, medical privacy, workplace privacy, and video surveillance regulations remain underdeveloped (Fatemi, 2024). Moreover, criminal sanctions for certain privacy violations may lack sufficient deterrence, as penalties in some cases are too lenient to prevent repeat offenses (Nobahar, 2018).

In Iraq, the Constitution and the Penal Code provide basic privacy protections. The Iraqi Constitution explicitly recognizes privacy rights, and the Penal Code criminalizes certain violations. However, compared to Iran, Iraq faces significant legislative gaps in this area (Damoush Al-Ameli, 2018). One notable strength of Iraq's legal system is Article 17 of the Constitution, which explicitly prohibits privacy violations. Nevertheless, in practice, weak judicial structures and procedural enforcement often result in ineffective implementation of these privacy protections (Soroush, 2015).

Efforts have been made to draft laws on data protection and cybercrimes, but due to political and social challenges, these laws have not yet been enacted (Doosti Zadeh et al., 2024). As a result, Iraq currently faces serious challenges in protecting digital privacy and personal data (Vara, 2024).

Among the major weaknesses of Iraq's criminal justice system, the lack of a comprehensive privacy law, the absence of an independent regulatory body to enforce privacy laws, and harsh treatment of suspects during investigations are notable concerns

(Mortazavi, 2013). Additionally, Iraq's political and security crises have led lawmakers to prioritize national security over privacy protections, causing privacy issues to be overlooked (Tabatabaei Motameni, 2019).

Overall, an examination of criminal sanctions for privacy violations in Iran and Iraq demonstrates that both legal systems possess strengths and weaknesses (Nobahar, 2018). Iran has made greater progress in enacting cybercrime laws and procedural protections, whereas Iraq has established stronger constitutional guarantees for privacy rights (Mohseni, 2011).

In both Iran and Iraq, privacy laws need to be revised and updated to address modern challenges and align with international human rights standards (Golmakani, 2024). Strengthening regulatory institutions, training judges and law enforcement officers, and enhancing public awareness are essential measures for improving privacy protections in both countries (Vara, 2024).

6. Analysis and Discussion

A comparative analysis of privacy laws in Iran and Iraq reveals that both legal systems, given their shared cultural and religious roots and their commitment to fundamental human rights principles, have adopted similar approaches in certain areas, while notable differences exist due to specific legal conditions and legislative priorities in each country.

Regarding commonalities, both legal systems recognize privacy as a fundamental right and emphasize its protection in their constitutions and statutory laws. Both countries emphasize the necessity of safeguarding personal privacy and have established mechanisms to enforce this right. Unauthorized entry into private residences, eavesdropping, and the disclosure of personal secrets are criminalized in both Iran and Iraq, with penalties prescribed for violations. This shared legal approach highlights the importance of privacy protections and efforts to prevent privacy violations in both societies.

Both legal systems place great importance on the confidentiality of private communications and correspondence, prohibiting unlawful interception and disclosure. Although the methods of protecting this right vary, both Iran and Iraq affirm the necessity of legal authorization for intrusions into individuals' privacy, aiming to prevent abuse by authorities and government agencies.

Regarding differences, Iraq's Constitution explicitly mentions "privacy" as a fundamental right (Article 17 of the Iraqi Constitution), whereas Iran's Constitution does not explicitly use the term "privacy", although various provisions implicitly endorse privacy protections (Hashemi, 2020).

Additionally, Iranian law has placed greater emphasis on criminalizing privacy violations in cyberspace, enacting specific legislation such as the 2009 Cyber Crimes Law. In contrast, Iraq's legal framework for digital privacy is still in development, reflecting Iran's more advanced digital landscape and greater concerns about online privacy risks.

Another significant difference is Iran's explicit criminalization of the disclosure of professional secrets by specific professions, such as doctors and lawyers (Article 648 of the Islamic Penal Code). In Iraq, less legislative attention has been given to this issue, highlighting different legislative priorities regarding privacy in professional relationships.

A further distinction is the concept of "surveillance" and its legal treatment. Iranian law broadly defines "surveillance" as a general offense, criminalizing any attempt to obtain private information about individuals without their consent. Iran's Constitution and statutory laws explicitly prohibit surveillance into individuals' private affairs, considering it a violation of privacy. In contrast, Iraqi law primarily focuses on eavesdropping and unauthorized wiretapping, with less emphasis on broader surveillance issues. This difference illustrates the divergent legal approaches taken by Iran and Iraq in addressing privacy violations.

Regarding freedom of expression and the press, Iran and Iraq differ in their regulatory approaches. While both countries provide certain guarantees for free expression, Iran imposes stricter legal restrictions, particularly in cases involving criticism of Islamic principles or the political system. Iraq, in contrast, provides relatively broader freedoms, with fewer legal constraints (Nekouei Mehr et al., 2019). This divergence impacts how privacy violations related to information disclosure and freedom of speech are addressed.

Overall, a comparative analysis of criminalized privacy violations in Iran and Iraq demonstrates efforts in both countries to protect this fundamental right while also revealing differences in legal priorities and the scope of privacy protections. Iran has focused more on digital privacy, cybercrimes, and professional confidentiality, whereas Iraq's legal framework emphasizes protections for private residences and correspondence.

A comparison of Iran's and Iraq's privacy laws with international standards shows that both countries are striving to align their laws with global human rights norms, but significant challenges remain. International treaties and human rights conventions provide essential frameworks for privacy protection.

The Universal Declaration of Human Rights (Article 12) prohibits arbitrary interference with individuals' privacy, family life, and correspondence. Both Iran and Iraq have generally adhered to this principle in their constitutional frameworks, yet face challenges in its practical enforcement.

The International Covenant on Civil and Political Rights (Article 17) guarantees privacy rights and prohibits arbitrary interference. Iran has ratified this covenant and generally acknowledges its obligations, although implementation challenges exist. Iraq, as a country with Islamic legal influences, also acknowledges this covenant but may interpret its provisions differently (Nobahar, 2018).

The European Convention on Human Rights and other regional human rights treaties establish similar privacy protection standards. While neither Iran nor Iraq has acceded to these conventions, efforts exist to align domestic laws with general human rights principles.

Despite these efforts, both Iran and Iraq face major challenges in complying with international privacy standards:

1. Vague legal definitions of privacy: Privacy laws in both Iran and Iraq often lack precise definitions, leading to interpretation inconsistencies and potential violations.
2. Conflicts between privacy and freedom of expression: Legal restrictions on free speech in both countries can undermine privacy protections and enable misuse.
3. Absence of comprehensive privacy legislation: Neither Iran nor Iraq has a fully developed, standalone privacy law, particularly concerning personal data protection in the digital sphere.
4. Weak enforcement mechanisms: Even where privacy laws exist, ineffective enforcement and the absence of independent regulatory bodies hinder their effectiveness.
5. Government interference and national security concerns: Privacy violations under the pretext of national security or counterterrorism remain a significant risk in both Iran and Iraq.

The implementation of privacy laws in both Iran and Iraq faces various challenges (Mohseni, 2011).

1. Institutional weaknesses: Regulatory and judicial bodies responsible for privacy enforcement lack sufficient financial and human resources, reducing their effectiveness.
2. Low public awareness: Many individuals in both Iran and Iraq remain unaware of their privacy rights, leading to widespread violations that often go unchallenged.
3. Corruption in governmental and judicial institutions: Corruption can obstruct the proper enforcement of privacy laws, particularly when powerful stakeholders benefit from privacy violations.
4. Social and cultural norms: Certain traditional beliefs and social customs in both Iran and Iraq may conflict with modern privacy concepts, leading to societal acceptance of certain privacy breaches.
5. Technological challenges: The rapid expansion of digital technologies introduces new privacy risks, such as data breaches, cyber intrusions, and online privacy abuses, requiring updated legal responses.
6. Security-driven privacy restrictions: Iraq's security challenges have led to privacy restrictions justified by counterterrorism efforts, allowing government surveillance and intrusion into personal activities.

Even when appropriate privacy laws exist, gaps in enforcement mechanisms prevent their full implementation. These limitations arise from lack of resources, inadequate legal training, and insufficient institutional coordination.

To enhance criminal protections for privacy violations, the following measures should be taken:

1. Iran should enact a comprehensive privacy law addressing all dimensions of privacy, including data privacy, physical privacy, spatial privacy, communication privacy, and digital privacy. This legislation should be aligned with international human rights standards and technological advancements.
2. Revisions to Iran's Penal Code and Criminal Procedure Code are necessary to eliminate ambiguities and strengthen enforcement mechanisms for privacy violations.
3. Establishing independent regulatory bodies with authority over government and private-sector privacy practices would enhance legal oversight and compliance.

4. Public education campaigns on privacy rights, risks of privacy violations, and protective measures can help foster a culture of privacy awareness.
5. Support for civil society organizations working on privacy advocacy and human rights would help strengthen legal accountability mechanisms (Sarami et al., 2020).

For Iraq, key reforms include:

1. Passing a Data Protection Law in line with international standards, involving stakeholders in the legislative process.
2. Enhancing judicial independence to ensure fair and efficient adjudication of privacy violations.
3. Training law enforcement and judicial personnel on privacy laws and human rights standards.
4. Developing mechanisms for compensating victims of privacy violations.
5. Strengthening cooperation with international human rights organizations to improve privacy policies.

Achieving stronger privacy protections requires collaborative efforts among governments, judicial institutions, civil society, and citizens. By adopting global best practices, Iran and Iraq can move toward a more robust and equitable privacy protection framework (Nekouei Mehr et al., 2019).

7. Conclusion

The findings of this study, which conducted a comparative analysis of criminal enforcement mechanisms for privacy violations in Iran and Iraq, indicate that despite cultural and legal differences, both legal systems recognize the importance of protecting individuals' privacy. However, significant differences and challenges exist concerning how criminal law safeguards this fundamental right.

A summary of the findings reveals that both legal systems criminalize common privacy violations, including unauthorized entry into private residences, eavesdropping, and disclosure of personal secrets. However, Iranian law places greater emphasis on criminalizing privacy violations in cyberspace and cybercrimes, and specifically addresses professional privacy protections. In contrast, Iraq's legal system faces more deficiencies in criminalizing digital privacy violations, and its criminal enforcement mechanisms in this area require strengthening.

The comparative analysis demonstrates that Iran's legal framework is more advanced in regulating digital privacy and procedural protections, while Iraq's constitutional framework provides a stronger foundation for privacy protections. Additionally, existing laws in both Iran and Iraq fail to comprehensively protect privacy, and common challenges include weak law enforcement, lack of resources, and administrative corruption.

An evaluation of the legal systems of Iran and Iraq in relation to international standards reveals that both countries have taken steps toward aligning their laws with global norms, yet significant challenges persist. These include the lack of precise legal definitions of privacy, restrictions on freedom of expression, and the absence of comprehensive data protection laws.

Despite efforts in both Iran and Iraq, the implementation of privacy laws faces practical constraints and limitations. These challenges include financial and human resource shortages, lack of public awareness, cultural and social barriers, and the misuse of modern technologies, all of which hinder the effective enforcement of privacy laws.

Given the growing privacy concerns in both Iran and Iraq, the importance of privacy protection and the need for increased legal attention to this issue is undeniable. Privacy is not only a fundamental right but also a prerequisite for a democratic and healthy society. Violations of privacy can lead to serious psychological, social, and economic harm, weakening public trust. Therefore, establishing mechanisms to safeguard individuals' privacy is a primary responsibility of governments and societies.

In this context, stronger laws and more effective enforcement mechanisms to protect privacy are more essential than ever. Privacy laws must not only protect individual rights but also comply with international human rights standards. Criminal enforcement mechanisms must be deterrent and proportionate to the nature of the offense, ensuring that privacy violations are prevented and perpetrators are brought to justice. Additionally, raising public awareness about privacy rights and protection measures is necessary to enable individuals to defend themselves against potential violations.

This study underscores that privacy is a fundamental and non-negotiable right that requires comprehensive attention and protection. Governments, judicial institutions, civil society organizations, and citizens must collaborate to create a society where everyone's privacy is respected and safeguarded.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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